Scott. IT-27—35,006—27-10-33

Law (gl) (1934) Department

MS SERIES.

G.O. No. 2308

DATED 10.8.1934

[Despatch Abstract.]

[illegible]

Rec'd 14/4/34

C.F. 30.

Jail **DEPARTMENT.**

Received ..... 19 *Registered* 19

Subject.

Jails - Subjail, Mangalore - Scavenging tax - Exemption from the payment of - Orders requested -

ENCLOSURES.
No. .....
.....
Spare copies .....

No. G/.379.

Station Ootacamund., *Dated the* 21st March 1934.

From (Name) Major M.M.Khan, I.M.S.,

(Designation) Ag.Inspector-General of Prisons.

To The Secretary to the Government of Madras,

Law (General) Department.

Sir,

I have the honour to report that with reference to Rule 654 of the Jail Manual the trenching of night soil was carried on in the Subjail, Mangalore till December 1933 on the low ground lying on the northern side of the jail garden. Although the jail is situated in the centre of the town the trenching of the night soil was not objected to by the municipality uptill now as the jail is almost isolated from the town proper, having paddy fields on the west and south of the jail, jail gardens on the north and a public road on the east. It is also reported that there are only five -

houses in all, on the northern and eastern side of the Jail garden situated on a higher level and at a considerable distance from the jail. No complaint appears to have been received so far from the occupants of these houses. Under these circumstances the municipality granted exemption for the year 1932-33, from the payment of scavenging tax. The municipality, however, claimed scavenging tax for the year 1933-34 though none of the services referred to in G.O.No.4427, L.& M. dated the 9th November 1932 were rendered to the jail. Thereupon, the attention of the municipality was drawn to the Government Order read above and the Chairman of the Municipal Council was requested to set aside the claim. As the trenching within the limits of the municipality was objected to on the health point of view, the Director of Public Health, Madras was consulted in the matter and a copy of his report is herewith enclosed for the information of Government.

2. It is not clear what the objection raised by the municipality exactly is and how the health of occupiers of residences close by will be affected when the provisions of Rule 652 and 654 Jail Manual are obligatory. According to section 155(1) of the District Municipalities Act and with reference to Section 158(2) the Council may by notification require the provision of receptacles for temporary deposit of filth and for removal by municipal servants. The Act no doubt seems to empower the Chairman, but it is apparent that he is intent on disallowing trenching. As his action appears to be unreasonable the matter is brought to the notice of Government.

Seeing that the remarks of the Director of Public Health were not helpful, it was ordered that the trenching should be stopped and that the services of the municipality obtained for conserving the jail and residential buildings. The Chairman, Municipal Council, Mangalore was, however, approached for exempting the jail from the payment of scavenging tax for the first half year 1933-34, for which period he has absolutely no claim under the orders of Government contained in the

(11) Government Order read above. Without assigning any reason, the exemption from the payment of scavenging tax for the period held under objection was again refused by him. I therefore request that the Government may be pleased to issue instructions to this officer to grant exemption for the period for which he has no justification in pressing his claim.

I have the honour to be,

Sir,

Your most obedient servant,

Major I.M.S.,

Ag.Inspector-General of Prisons.

vss.

4

Extract from the visitors book of the Subjail, Mangalore dated the 30th November 1933.

88 convicts in Jail to day. 20 males and 1 female undertrial, 1 civil mental defective for observation. The cleanliness and sanitation of the jail is good. The chief object of this visit related to the recent correspondence concerning the removal and trenching of night soil in the jail garden. The whole question is one of policy in the points on both sides. The Inspector-General of Prisons naturally has his view point on this case on the one hand while the Chairman of the Mangalore Municipality has his view point on the other side. The whole question revolves round a question of policy which might be well represented to Government for opinion and settlement.

Sd. J.Webb,
Lieut-Col.I.M.S.,
Director of Public Health,Madras.

Supdt's remarks.-

The Jail garden where night soil is being trenched was inspected as per last para of this office letter No.1500/33, dated 27-11-1933 in reply to the Proceedings No.10864,dated 16-11-1933 of the Inspector-General of Prisons, Ootacamund.

/True copies/

for Inspector-General of Prisons.

5

Jail DEPARTMENT.

C.F. 30.

L.P. 2553-C

14/4/34

GOVERNMENT
13 APR 1934
LAW DEPARTMENT

Received ..... 19 *Registered* 19

Subject.

Subjail, Mangalore - Scavenging tax - Exemption from the payment of - Orders requested -

ENCLOSURES.
No. .....
.....
Spare copies .....

No. G/. 487

Station Ootacamund., *Dated the* 10th April 1934.

From (Name) Major M.M.Khan, I.M.S.,

(Designation) Ag.Inspector-General of Prisons.

To The Secretary to the Government of Madras,

Law (General) Department.

Sir,

In continuation of my letter No.G.379, dated the 21st March 1934, I have the honour to state that a report has since been received from the Superintendent, Subjail, Mangalore that night soil is now being removed by the Mangalore Municipality only from the 6th March 1934 although the Chairman of the Municipal Council was addressed for making necessary arrangements so early as December 1933.

Under Section 81 of the Madras District Municipalities Act, 1920 as amended by Act X of 1930 the scavenging tax is merged in the property tax. According to sections 89 and 90 of the same act, the owner is not liable to pay any property tax in respect of the cases referred to therein, if the duty

of inclusion falls within the [illegible] half year. Even professional [illegible] concerned do not transact any business or [illegible] profession or reside within the Municipal [illegible] than sixty days in the [illegible] section 33(1) of the Act. It is clear from this section that no tax can be levied by the Municipality [illegible] if it is less than sixty days, whether [illegible] happens to be within the first two months of the half year. On this ground, I consider that the Municipality is not entitled to claim for the scavenging tax even for the first half year, as no services of any kind were rendered by it to the [illegible]. However, I have no objection to the payment of a portion of the scavenging tax for the period for which services were rendered, if the Municipality insists upon the payment of the amount.

The following statements have been prepared to show the scavenging tax for the first half year and I request that the Government may be pleased to order the necessary sum to be granted to the Chairman to set aside his objection to the first half year's bill.

1. Subjail buildings, Kandy....	37	0.
2. Segregation wards.....	1.1	7 0.
3. Wardens' quarters.....	2.10	13 3.
4. Jailer's quarters.....	5	0.

Instructions have already been issued for the recovery of the scavenging tax on the rental value fixed for the respective occupants but such rates will be fixed for each of the quarters.

I have the honour to be,

Sir,

Your most obedient servant,

[illegible]

vsg. [illegible]

7

L. S. G Dept.

[Cro. 21709 A]

46. 13/6.

J. 28-6-34 Subject:- Tax - Property - Scavenging Mangalore mnl cl - Exemption of Sub-jail Buildings.

31/5 Memo 21709 A-1 C_2 Law B 31-5-1934

It has been brought to the notice of the Govt that the trenching of night soil of prisoners was carried on in the sub-jail at Mangalore on the low ground lying on the northern side of the jail garden which is within the limits of the Mangalore municipality, that on the objection taken by the mnl cl such trenching was stopped and that the night soil of jail and residential buildings began to be removed by the municipal authorities only with effect from 6.3.34, although the chairman was addressed for making necessary arrangements from December, 1933. It has also been brought to the notice of the Govt that the mnl cl exempted the jail buildings

page 1 of

but that it was

from scavenging for 1933-34 ~~and~~

refused to grant a similar exemption

for 1933 34. It is contended

~~The Court Coaction~~ that

as the ml cl rendered scavenging service to the

jail only for 26 days during 1933-34

ie from 6.3.34 to 31.3.34, the ml cl

should be exempted from payment of

scavenging tax for the whole 1933 34

The Mangalore ml cl is ~~requested~~

requested to report why full

exemption from the tax should not be granted at a very early date

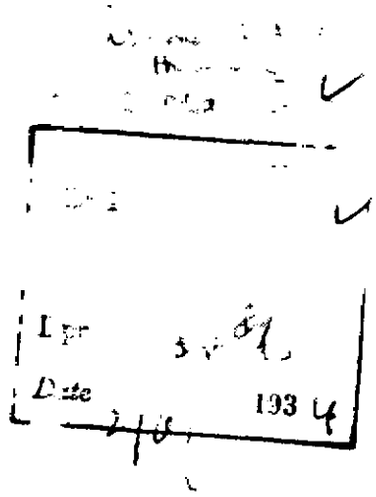
for 1933-34.

SW
26.5.34

29/5

U

29/5



E2 9

(F. 30

DEPARTMENT.

Received ..... 19 *Registered* 2754 6 19

Subject.

Tax - Property - Scavenging - Jail buildings - Exemption - Government Memorandum No.21709-a1-E 2, L & M., dated 31-5-1934.

******

pp 7+8 ante

ENCLOSURES.
No. Four.
Spare copies

R. No. 495/34-35

Station Mangalore, *Dated the* 5th July 1934.

From (Name) M.R.Ry.C.R.Karunakara Menon,Avl.,B.A.B.L.,
(Designation) Commissioner,Mangalore Municipality,

To The Secretary to the Government of Madras,
Through Local Self Government Department.
The Chairman,Municipal Council, Fort St.George,Madras.
Mangalore.

Sir,

I have the honour to state that the Government Memo referred to above was placed before the municipal council for decision, at its meeting held on 28-6-1934, when the council resolved that no exemption from payment of scavenging tax for the period 33-34 could be granted - A copy of the Council's resolution is enclosed.

para 4 below

The question of exemption of buildings from scavenging tax was referred by the council to a committee, and the committee after mature deliberations recommended that no exemption should be granted in any case. The

Committee's

committee's report (copy enclosed) was [illegible] the council in its resolution No.10, dated 5th December 1933 (copy enclosed), and the Jail authorities were [illegible] 5th February 1933 informed of the fact and [illegible] the scavenging tax with effect from 1st April 1934. In this connection it may also be pointed out that the exemption [illegible] Section 83 (4) is only optional and not [illegible] in view of the fact that the council [illegible] and is also empowered to scavenging service in respect of every building and land within the municipal limits, the council is of [illegible] could be granted.

As stated in the Government Memorandum, trenching of night soil in the Jail premises was [illegible] by the Jail authorities, till it was objected to by the council. The Jail authorities in their letter dated 13th December 1933 requested this council to make necessary arrangements for the removal of filth etc. and this was being done from 25th January 1934 and not from 6th March 1934 as stated in the Government Memorandum. I may also add that the Jail authorities in their letter referred to above requested for exemption for 1st half of 33-34 only, and that this request was also duly considered and granted by the council in its resolution No.16, dated 5-2-1934 (copy enclosed)

Your obedient servant,

C. Subramaniam.

J. P. Etc.

Commissioner.

Forwarded.

5th July 1934

Chairman, L.C.

11

No.....

Extract from the Proceedings of the Mangalore Municipal Council, dated 28th June 1934.

PRESENT:-

15. Read Government Memorandum No.21709/A1-E2, L & M., dated 31st May 1934 requesting the council to report why full exemption from scavenging tax should not be granted in respect of Sub-jail buildings for the year 1933-34, office note and the file of connected papers thereon.

The council regrets that it sees no reason to reconsider its former decision. The Chairman is authorised to address the Government as discussed in the council.

x x x

/True Extract/

Municipal Office,
Mangalore, 5-7-1934

C. R. Ramachandra Rao 6.7.34.
Commissioner.

Report of the committee appointed to report in connection with the exemption of certain buildings in the Municipality from payment of scavenging tax.

Present.

Dr. K. Vittal Shetty, Chairman

M. R. Ry. Karant K. B. Avargal.,

Mallya U. P. Dr.

Raghavendra Pai, M. Avargal.,

Subba Rao N. L. Mrs.

Capt. R.B.Subramanyam, Municipal Health Officer was also present.

****

The Committee after mature consideration is unanimously of opinion that it is not in favour of granting any exemption whatever whether under Section 83 or 117 or any other provisions of the Act in respect of payment of scavenging tax, and in case of exemptions already granted, the owners concerned are to be informed that after the lapse of the current year, further exemptions will not be granted.

Municipal Office,
Mangalore, 26-11-1932

Sd/K.Vittal Shetty,
Chairman, M. C.

/True Copy/

Municipal Office,
Mangalore, 5-7-1934

6.7.34.
Commissioner.

13

No.....

Extract from the Proceedings of the Mangalore Municipal Council, dated 5th December *19* 32.

PRESENT:-

x x x

10. Read report of the Committee appointed to report in connection with the exemption of certain buildings in the Municipality from payment of scavenging tax.

The Committee's recommendation not to grant exemption in respect of payment of scavenging tax is accepted, Mr. B. M. D'Souza alone dissenting.

x x x

(T r u e E x t r a c t)

Municipal Office,
Mangalore, 5-7-1934

6.7.32.

C o m m i s s i o n e r.

14

No.....

Extract from the Proceedings of the Mangalore Municipal Council, dated 5th February *19* 34.

PRESENT:-

x x x

15. Read letter No.1566 dated the 12th December 1933 from the Superintendent, Sub-Jail, Mangalore, requesting to exempt the Jail buildings from the payment of scavenging tax for the I half of 1933-34 as no private scavenging service was rendered to the buildings.

The council regrets that it is not prepared to exempt the jail buildings alone from payment of scavenging tax for the I half of 1933-34.

x x x x

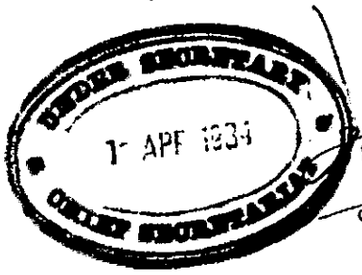
/True Extract/

Municipal Office,
Mangalore, dated 5th July 1934

C.R. Kamma Karanth 6.7.34
Commissioner.

Law (general) Depn.

C. No 2116c From the D. G. of Prisons No 5. 379 dated 21-3-34



Jails. Sub-jail, Mangalore - Exemption from Scavenging tax.

As.

G.O. No 4427 L & M. dated 9-11-32 is required for the disposal of the reference from the D. G. mentioned above. It is ascertained that the G.O. has been taken by Public (Police) Depn for C. No 9553 of 1933. Submitted that Public (Police) may if no longer necessary be requested to put up the G.O., and return the file as early as possible

A

CC400

L. 11-4-34.

11/4

11/4

L. for 2116 C/J
11-4-34

Public (Police) Depn

The file referred to at A above was sent to L.D.G. with this Depn's U.O. No 2871-J d. 28.3.34 This may be sent to L.D.G. for compliance.

12/4/34

L.D.G.

L.S.G.D.

The file referred to by the Jail (Police) Depn

6

was returned to that dept. [illegible]
Wlo no. 14560 1 Ear Dem. This may be sent [illegible]
for compliance.

SDR
26.4.34

27/4

[illegible]

27 APR [illegible]

Public 'Police' file

The original of go No 444 SR dated 9.11.32 marked by Law (Genl) on p.1 ante is put up at (H). The file may be returned to that dept as [illegible] send necessary [illegible] to CRB.

28/4/34

28/4/34

AS
Pub (Police) No 9400-2
30/4/34

d. 28/4/C
1/5/34

Law (General) Dept.

1-3 cf C.No. 2116 C - From the I.G. of Prisons, No.G.379, dated 21-3-34.

5-7 cf C.No. 555 C - From the I.G. of Prisons, No.G.487, dated 10-4-34.

Sub-jail, Mangalore - Exemption from scavenging tax.

A.S.

Please see the I.G.'s letters on pp. 1-3 and 5 ~~—~~ 7 c.f.

1 194 2/ Rule 654 of the Jail Manual contains directions for the trenching of night soil of prisoners in a jail. In accordance with this rule, the trenching of night soil was carried on in the sub-jail, Mangalore on the low ground lying on the northern side of the jail garden, which is, ~~of course~~, within the limits of the Mangalore municipality. The I.G. brings to the notice of Govt. that the municipality claimed scavenging tax for the sub-jail, Mangalore for the year 1933-34. The I.G. also observes that as the trenching of night soil within the limits of the municipality was objected to on the health point of view, the D.P.H. was consulted, but as the opinion of the D.P.H. was not helpful it was ordered that the trenching should be stopped and the services of the ~~xxxxx~~ municipality obtained for conserving the jail and residential buildings.

1 cf

2 cf

2 cf

(H) 3/ In G.O. 4427 L.& M. d/ 9-11-32 it is ~~held~~ stated ~~down~~ that the scavenging tax does not stand on the same footing as a tax levied for general purposes but is a tax intended for a specific service rendered for daily removal of rubbish, filth and carcasses of animals from private premises. If the municipal

council is satisfied that the owner or occupier of a building or land has made arrangements for scavenging of his premises, the council may exempt such building or land from the scavenging tax under sub-section (4) of section 83 of the Act.

4 The I.G. states that night soil of jail and residential buildings was begun to be removed with effect from 6-3-34, although the C.M.C. was addressed for making the necessary arrangements from Dec.1933. It is seen that the municipality collected the scavenging tax for the sub-jail, Mangalore for the first half-year during 1933-34. The claim for the second half year is pending payment. The I.G. requests that the scavenging ~~paid~~ tax paid for the first half-year may be refunded and the claim for the second half year may be set aside.

5 It will be seen from the I.G's letter that during 1933-34 the municipality rendered scavenging service to the jail only for 26 days for the second half of the year 1933-34, that is, 6-3-34 to 31-3-34. The I.G. contends with reference to sections 89 and 90 and section 93 (1) of the Act that no tax can be levied by the municipality for any period if it is less than 60 days ~~specifically~~ when such period happens to be within ~~the~~ last two months of any half year. It may be noted that scavenging tax is not a separate tax, but is merged in the property tax. Section 89,90 and 93 (1) of the Act referred to by the I.G. have no application to the ~~transactions~~ present case. In respect of the claim of the Municipal Council, Mangalore, it is submitted that the municipal council did not do any scavenging service to the jail premises for the first half of year of 1933-34 (April to Sept). though it did scavenging service for 26 days during the second half year, that is, from 6th March 1934 to 31st March

5

March 1934. The claim of the Municipal Council for the scavenging tax for the first half year is unjustifiable. ~~The tax for the first half year should be adjusted against the claim for the second half year and the claim for the second half year should be withdrawn.~~

6 The remarks of L.S.G. ~~and Finance~~ may be invited u.o.

J.D. 7.5.34

This dept may support the dy's proposal that the scavenging tax for the Sub-jail buildings at Mangalore payable be exempted from the payment of the scavenging tax for the first & second half year of 1933-1934. L.S.G for remarks

pb 12

BR 15/5

S Lw 18/5/34.

L. S. G.

L Gen 2116C-2 18/5/34

Lab Bothy

Please obtain the remarks of the Dy. Chief Engr-

Dy Secy

22/5

DEPUTY SECRETARY TO GOVERNMENT
21 MAY 1934
21709A
LOCAL SELF-GOVERNMENT DEPT.

Lab Advr

22/5

6

A draft memo is submitted for approval

SH
26.5.34

Has not the Commissioner taken charge at Mangalore, and should not the memo. be addressed to him ?

The memo. may issue with change in the address entry if necessary.

C1

[Issued as Memo No. 21709 A ...

[Cm. 27546 from the Commissioner, Mangalore Muni

R.No. 495-34-35 dated 5.7.1934]

The Mangalore mul cl has refused to exempt the sub-jail buildings from payment of scavenging tax for 1933-34. Under the M.D.M Act 1920 as it stands at present, the mul cl cannot be forced to grant the exemption - Vide sections 8 3(4) and 117 of the M.D.M Act 1920. It is however, proposed to amend the M.D.M Act 1920 so as to empower ~~to take powers by~~ Govt to direct mul cls to grant exemptions in fitting cases. In the present case, no further action can be taken. The file may be returned to the Law (Genl) Depr.

B

8/8
10.7.34

11/7

Law (Gl)
30/7.

Law (Gl)

Seen
Law (Gl) 31/7/34

L.S. Guee 27546-1&2 dy
31.7.34

31 JUL 1934
GOVT

AS

[This dept note @ pp. 3-5 ante]
A draft order is submitted

[This presumes that the Assembly
L-P4476C at B above request be communicated
31/7/34 to the D.C.]

AS D.D
6.8.34
KDW
6.8.34

BBL
7/8

LWO
9/8/34

S

53/1934.

C.F. 16.

DRAFT FOR APPROVAL.

Land Gen I

	Date.	Initials.
When received for fair copying ..		
When copied ..		9/8
When examined ..		
When signed ..		
When despatched.		

SUBJECT :— Jails

Sub Jail, Mangalore - Exemption from the payment of Scavenging Tax - 1933-34

Refused.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

No. 2166 From the D.G. of Prisons, No. 379, dated 21-3 1934.

" 2555 " — do. " 487, 10-5 1934.

" — " Comm. Mang. Municipality " 455, 5-7 1934. 343 C

Order Ms. No. 2308, dated 10-8- 1934.
~~Resolution Rout.~~

The D.G. of Prisons is informed that the Mangalore Municipal Council has refused to exempt the Sub. Jail buildings, Mangalore from payment of Scavenging Tax for 1933-34. The tax will be paid.

Dpd. by Van / Post / Messenger

Dpr.'s initials.

Date 11/8 193 .

Do

The D.G. of Prisons.

6/8/34.

KGIV
6.8.34

9/8/34.